

PUBLIC SAFETY DEPARTMENT[661]

Adopted and Filed Emergency

Pursuant to the authority of Iowa Code section 101.1, the State Fire Marshal hereby amends Chapter 221, "Flammable and Combustible Liquids," Iowa Administrative Code.

Iowa Code section 101.1 authorizes the State Fire Marshal to adopt rules for the safe transportation, storage, handling, and use of flammable liquids. This amendment is based upon the International Fire Code and relevant national standards published by the National Fire Protection Association.

Flooding of existing flammable liquid storage tanks at motor fuel dispensing facilities has left many of these facilities unable to meet the standards of the State Fire Marshal for aboveground storage of flammable liquids and the standards of the Department of Natural Resources for underground petroleum storage tanks.

The amendment adopted herein provides standards for temporary emergency storage of flammable liquids in aboveground tanks in situations in which the usual storage provisions of a motor fuel dispensing facility are inoperable. These provisions will be available to facilities in areas covered by disaster emergency proclamations or otherwise approved by the State Fire Marshal. Generally, use of temporary flammable liquid storage will be allowed for 90 days.

Pursuant to Iowa Code section 17A.4(2), the Fire Marshal finds that notice and public participation prior to the adoption of this amendment are impracticable. Motor fuel dispensing operations affected by storm and flood damage require certainty as to their ability to continue to operate; immediate adoption of this amendment will provide that certainty.

Pursuant to Iowa Code section 17A.5(2)"b"(2), the Department further finds that the normal effective date of this amendment, 35 days after publication, should be waived and this amendment be made effective July 1, 2008, after filing with the Administrative Rules Coordinator. This amendment confers a benefit upon the public by allowing motor fuel dispensing facilities to continue to operate in areas subject to disaster emergency proclamations.

This amendment is also being proposed in a Notice of Intended Action, published herein as **ARC 6949B**, to allow for public comment.

This amendment is intended to implement Iowa Code chapter 101.

This amendment became effective July 1, 2008.

The following amendment is adopted.

Adopt the following new subrule 221.4(4):

221.4(4) Temporary storage in disaster emergencies. Notwithstanding any provision to the contrary found in this chapter or found in the International Fire Code or NFPA 30A as adopted by reference herein, aboveground petroleum storage tanks may be used to store flammable and combustible liquids in motor fuel dispensing operations, provided that all of the following apply:

a. The facility is in an area covered by a disaster emergency proclamation issued by the governor pursuant to Iowa Code section 29C.6 or, if not in such an area, the facility has applied to the fire marshal and has been approved for storage of flammable and combustible liquids in compliance with this subrule.

b. The facility has suffered damage which has rendered the storage tanks normally used by the facility for flammable and combustible liquids inoperable. Storage of flammable and combustible liquids in compliance with this subrule shall continue only for as long as the normal storage tanks are inoperable and in no event for more than 90 days.

EXCEPTION: In extraordinary circumstances, storage of flammable and combustible liquids in compliance with this subrule may continue for more than 90 days if the facility has sought and received specific written approval from the fire marshal for such storage.

c. The facility has written confirmation from the facility's insurance provider that insurance coverage will apply while storage of flammable and combustible liquids in compliance with this subrule is occurring.

d. Any aboveground petroleum storage tank used pursuant to this subrule shall be rated or listed by an independent testing laboratory for aboveground storage of flammable and combustible liquids.

e. Any aboveground petroleum storage tank used pursuant to this subrule shall be of no more than 1,000 gallons capacity.

EXCEPTION: A storage tank larger than 1,000 gallons capacity may be used pursuant to this subrule if the facility has received specific written approval from the fire marshal for its use. In reviewing such a request, the fire marshal shall consider, but is not limited to considering, the following factors:

(1) Volume of throughput of the facility.

(2) Ability to meet setback requirements appropriate to the size of the tanks used.

f. All electrical service proximate to the storage area shall comply with applicable provisions of NFPA 70, National Electrical Code, 2005 edition. An emergency shutoff control or electrical disconnect shall be installed no less than 20 feet nor more than 100 feet from any fuel-dispensing device at the facility. The control shall be clearly marked "Emergency Shutoff."

g. A 20-pound fire extinguisher with a minimum B:C rating of 40 shall be located no more than 50 feet from the location of any storage tank being used in compliance with this subrule.

h. Precautions shall be taken to prevent the ignition of flammable or combustible liquids, including the conspicuous posting of warning signs saying "NO SMOKING" and "NO OPEN FLAME."

i. Aboveground petroleum storage tanks used pursuant to this subrule shall be plumbed into existing dispensers, if practical. If this is impractical, all fueling at the facility shall be by attendant only; no self-service dispensing shall be allowed at the facility.

j. Any aboveground petroleum storage tank used in compliance with this subrule shall be located so as to be protected from prospective damage from vehicle collisions and shall be located with due regard to vehicular traffic patterns and the location of property lines and significant buildings, particularly those which are frequently occupied by humans.

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EDITOR'S NOTE: For replacement pages for IAC, see IAC Supplement 7/16/08.